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INSIDE THIS ISSUE

- DRA of 2005 Impact on Medicaid, Part IV
- Announcement
- Oast & Hook
- Distribution of This Newsletter

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DRA OF 2005 IMPACT ON MEDICAID, PART IV

In previous issues of the *Elder Law News* we have discussed the impact of the Deficit Reduction Act of 2005 on Medicaid (DRA). In this issue we will discuss additional DRA provisions that impact Medicaid.

Purchasing promissory notes, loans, or mortgages will be considered a transfer of assets for less than fair market value unless the note, loan, or mortgage meets certain requirements. The note, loan, or mortgage must have a repayment plan that is actuarially sound, as calculated by the Office of the Chief Actuary of the Social Security Administration. The note, loan, or mortgage must provide that payments are to be made in equal amounts over the term of the loan, with no deferral and no balloon payments, and the document must prohibit cancellation of the balance upon the death of the lender. If a note, loan, or mortgage does not satisfy these requirements, then the value of the note, loan, or mortgage will be the outstanding balance due as of the date of the individual's application for Medicaid.

If an applicant purchases a life estate in another individual's home, the purchase will be considered a transfer of assets for less than fair market value, unless the purchaser lives in the residence for one year after the purchase. Thus, if a parent wants to purchase a life estate in a child's residence, the parent will have to live in the child's residence for one year after the purchase, in order for the purchase to be considered a transfer for fair market value.

The equity in an individual's home may now affect the individual's eligibility for Medicaid long-term care benefits. An applicant is not eligible for Medicaid long-term care assistance if the equity interest in the applicant's home exceeds \$500,000. This restriction does not apply if the applicant's spouse or disabled child or child under age 21 lives in the home. Under

existing law in Virginia, however, if a single individual owns an interest in a home, and then needs Medicaid long-term assistance in a nursing home, the interest in the home is an available resource, regardless of value, six months after the individual is institutionalized. Under the DRA, the applicant can use a reverse mortgage or home equity loan to reduce the applicant's total equity interest in the home.

These DRA provisions illustrate the need for prior planning to comply with the new requirements for Medicaid eligibility. The attorneys at Oast & Hook are available to assist clients with their long-term care planning needs.

Announcement

Oast & Hook is pleased to announce its sponsorship of a series on WHRO-TV entitled "Boomers: Redefining Life After 50." This week's episode is Leaving a Legacy, and it will be aired at 4:30 p.m., Saturday, April 8th.

Oast & Hook

Oast & Hook is an elder law firm. We represent older persons, disabled persons, their families, and their advocates. The practice of elder law includes estate planning, investment and insurance advice, estate and trust administration, powers of attorney, advance medical directives, titling of assets and designations of beneficiaries, guardianships, conservatorships, and public entitlements such as Medicaid, Medicare, Social Security, and SSI, disability planning, income tax planning and preparation, bill paying and account management and reporting, care management, and fiduciary services. We also handle litigation involving these issues, such as will contests and estate administration disputes. For more information about Oast & Hook, please visit our website at www.oasthook.com.

Distribution of This Newsletter

Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Elder Law News*, then please e-mail us at eln@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

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